

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON FINANCE

Call to Order: By **CHAIRMAN BOB KEENAN**, on March 8, 2001 at 9:00 A.M., in Room 317 Capitol.

ROLL CALL

Members Present:

Sen. Bob Keenan, Chairman (R)
Sen. Ken Miller, Vice Chairman (R)
Sen. Tom A. Beck (R)
Sen. Chris Christiaens (D)
Sen. John Cobb (R)
Sen. William Crismore (R)
Sen. Greg Jergeson (D)
Sen. Royal Johnson (R)
Sen. Bea McCarthy (D)
Sen. Arnie Mohl (R)
Sen. Linda Nelson (D)
Sen. Debbie Shea (D)
Sen. Corey Stapleton (R)
Sen. Bill Tash (R)
Sen. Jon Tester (D)
Sen. Mignon Waterman (D)
Sen. Jack Wells (R)
Sen. Tom Zook (R)

Members Excused: None.

Members Absent: None.

Staff Present: Prudence Gildroy, Committee Secretary
Jon Moe, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted:

Executive Action: HB 295; HB 41; HB 73; SB 273;
SB 322; SB 66

EXECUTIVE ACTION ON HB 295

CHAIRMAN BOB KEENAN explained an amendment to the bill that would take the first three sections and leave the penalty change from six months to a year. The bill will then go back to the floor of the Senate. He said that's what the committee will vote on and if there is a problem, he will re-refer the bill to the Judiciary Committee. **SEN. MIGNON WATERMAN** asked if snowmobiles were eliminated by striking the first three sections. That was confirmed.

Motion: **SEN. KEN MILLER** moved that **HB 295 BE CONCURRED IN.**

Motion: **SEN. MILLER** moved that **AMENDMENTS TO HB 295 (29501) DO PASS.**

SEN CHRIS CHRISTIAENS inquired if the penalty then would be up to one year. **CHAIRMAN KEENAN** asserted that was at the top of page 4 and that the changes have to do with a suspended sentence. He asked the budget office not to write a new fiscal note, but to let him know if there is a need for a fiscal note and mentioned **SEN. CHRISTIAEN's** concerns. **Amy Sassano** said there was no change in the fiscal note. There is no fiscal impact with suspended sentences. Should there be a violation on the suspended sentence, then the situation is different. **SEN. CHRISTIAENS** said the reason he brought it up is because **SEN. GROSFIELD's** DUI bill passed. The bill includes a six months' treatment that can be followed by a different facility up to a maximum of 13 months. Fourth time or more DUI offenders will do 13 months with a two year probation period. His concern was with consistency with punishment of DUIs. He suggested coordination language that if SB 489 passes, that the bills be compared to make sure that there are not different lengths of sentencing for the same crime. **CHAIRMAN KEENAN** said HB 295 deals with first, second and third DUIs. He wondered if **SEN. CHRISTIAENS** was asking for a building up of some kind of consistency towards the fourth DUI through the first three. **SEN. GREG JERGSON** suggested that judiciary minded folks could explain it. Looking at first and second conviction where the imprisonment is for not more than six months, he wondered how a sentence could be suspended for a term longer than the term of imprisonment. **SEN. CHRISTIAENS** said that could be done because with a suspended sentence there is supervision through probation and parole. The conditions of the suspended sentence would take care of that part. He didn't think that was an issue of concern. In SB 489 there is treatment with a two year probation so that if offenders do not follow the conditions, they can be revoked and could end up in prison. **CHAIRMAN KEENAN** said he was inclined to re-refer the bill to judiciary. **SEN.**

WATERMAN wondered if there was any penalty for driving a snowmobile under the influence if the first three sections are removed. **SEN. KEENAN** said his guess would be yes on public roads, but not in state parks. **SEN. WATERMAN** told of concerns from constituents about people driving snowmobiles and boats while drinking. The committee decided to re-refer the bill and **SEN. MILLER** withdrew his motions for the amendments and the bill.

EXECUTIVE ACTION ON HB 41

CHAIRMAN KEENAN talked to the budget office about the bill and they talked with **SEN. ELLIS** because the bill ties to HB 201 from 1995 and the earmarking of funds from school trust land into technology in the schools. He had some concerns about the salvage logging money that is becoming available and that the bill might have some ramifications. He did not intend to deal with the bill immediately until it is known how much money is coming in and where the money is going. The Sula national forest has some pretty substantial cutting going on that will increase the revenue through this mechanism.

EXECUTIVE ACTION ON HB 73

Motion: **SEN. MILLER** moved that **HB 73 BE CONCURRED IN.**

SEN. JERGESON talked to the legislative auditor about the bill and couldn't find anywhere where full cost accounting is understood or addressed directly in GASB rules. There is a current procedure in the statutes that provides for the assessment proposals regarding privatizing. That involves the assessment of the costs of a proposal to privatize a service or function compared to the cost of operating as a state function. He thought if HB 73 passes, the current procedure should be repealed. The means for the legislative audit committee and the staff making the assessments are already in place. He said he would not vote for the bill. He thought it was duplicative and that what was needed was already in place. He suggested the committee consider repealing what is already in statute.

SEN. TOM ZOOK stated that the bill was at the request of an interim committee. He said they must have looked into the things that concerned **SEN. JERGESON** and still felt that the bill should go forward. He was not aware of any results of any recent studies. He remembered one study from highways that he felt was inconclusive. He stated support for the bill.

SEN. JON TESTER was concerned about taking bits and pieces of each agency and didn't think that would be effective. **SEN. ZOOK** agreed saying that the original intent was for a department wide

program. **SEN. SHEA** commented that she served on the interim committee and that the general intent was for a pilot program on a department wide basis. She said the key thing was that it was a pilot program.

SEN. ROYAL JOHNSON asked if the bill called for a department wide program when it came out of committee and if there was a lot of argument about whether to do it on a division or department basis. **SEN. SHEA** confirmed that a department wide basis was agreed to. **SEN. JOHNSON** suggested changing the bill back to the original intent of the committee.

SEN. KEN MILLER expressed concern about the fiscal note. **SEN. JOHNSON** suggested cutting it down to one department. **SEN. CHRISTIAENS** suggested the Department of Corrections (DOC). **SEN. JOHNSON** thought that was a good suggestion. **SEN. MILLER** stated that to do DOC would add one FTE according to the fiscal note. **DPHHS** would add one FTE. Transportation would add 2 FTEs in 2002 and then another in 2003. **SEN. JOHNSON** suggested restricting the bill to DOC and asking for another fiscal note. He offered to make a motion. **SEN. WATERMAN** said that the Department of Administration (DOA) and Information Technology (IT) were in the bill. **SEN. MILLER** said that DOA and Commerce had no cost. **SEN. WATERMAN** said there was something to be said for doing the DOA and IT division. She understood that the reason for the program was to see whether it was better to contract something out or do it internally. She said there has been some unsuccessful experience with contracting out in the DOC (Corrections). She thought there would be more options with contracting out technology. **SEN. JOHNSON** asked if she was talking about IT. **SEN. WATERMAN** confirmed that the Department of Administration including the Information Services Division was on the original list. **SEN. JOHNSON** said that could sure stand to be looked at but didn't know if there was enough money. He noted that there is a continuing IT committee. **SEN. MILLER** remarked that in the original fiscal note, DEQ, DOA, and Commerce have no cost and would not affect a new fiscal note. Corrections costs \$46,000 the first year and \$42,500 the second year. Three departments could be done with a fiscal note that is still zero.

Motion: **SEN. JOHNSON** moved **TO TAKE BILL BACK TO ITS ORIGINAL FORM AND RESTRICT IT TO THE DEPARTMENTS WITH NO COST.**

Vote: Motion carried unanimously.

Motion: **SEN. JERGESON** moved **TO AMEND THE BILL TO INSERT IN THE TITLE REPEALING SECTIONS 2-8-301 THROUGH 2-8-304 AND PUT A**

REPEALER SECTION REPEALING THOSE SECTIONS IN THE BILL PERTAINING TO THE PRIVATIZATION PLAN REVIEW CURRENTLY IN THE STATUTES.

That section requires the governor to submit two proposals to each legislative session and to have the legislative audit staff and committee review those proposals.

SEN. SHEA said the bill would only apply to three departments as they were sending it back. She asked if **SEN. JERGESON's** motion would repeal all the other agencies. **SEN. JERGESON** stated that two parallel processes were being set up with the passage of the bill. He said **SEN. ZOOK** had mentioned the current one hasn't been used much even though the governor is required to submit two proposals. The governor's office has not done that for the last six years. He thought if the old system was not going to be used, and if up a new system would be a means for evaluations, the old system should be repealed. **SEN. JOHNSON** said he resisted the motion. What was being proposed was a pilot program for a particular purpose. He was not sure that it goes back into the statutes and affects anything. He questioned removing the statute. He said there were lots of statutes that don't do anything so why worry about this one. **CHAIRMAN KEENAN** asked which sections would be repealed. **SEN. JERGESON** replied that it was Section 2-8-301 to section 2-8-304. **SEN. ZOOK** responded that a whole session could be spent just cleaning up the statutes. This would be a good start. He said if anyone could tell him about a study they'd received as a result of those statutes, he would like to know about it. He thought it was a good motion.

Vote: Motion to amend **passed 15-3 with Johnson, Miller, and Shea voting no.**

Vote: Motion that **HB 73 DO PASS AS AMENDED passed unanimously.**

EXECUTIVE ACTION ON SB 273

Motion: **SEN. MILLER** moved that **SB 273 DO PASS.**

SEN. COREY STAPLETON, presented two amendments to the bill.
EXHIBIT(fcs53a01)EXHIBIT(fcs53a02)

Motion: **SEN. STAPLETON** moved to **AMEND SB 273 (SB023702.alh).**

{Tape : 1; Side : B}

Questions from the Committee and Responses:

Referring to the amendment, **SEN. CHRIS CHRISTIAENS** asked if the Department of Revenue (DOR) would be required to check with the

Commissioner of Higher Education to make sure that student loans were not delinquent. He asked if it was something they do now.

SEN. STAPLETON replied that the Department of Labor (DLI) would coordinate that and only on federal and state loans, not private sector loans. **CHAIRMAN KEENAN** clarified that audits were done on the guaranteed student loan program.

Vote: Motion to **AMEND SB 273 (SB027302.alh)** carried unanimously.

Motion: **SEN. STAPLETON** moved an **AMENDMENT TO SB 273.**

SEN. STAPLETON explained that the intent was that an individual that qualifies for an incentive payment may not qualify for the tax credit for the same employee-employer relationship. If an individual employed themselves, the only way they would be eligible would be if they declared and paid payroll taxes on themselves and then the benefit would be smaller than the taxes paid. **SEN. STAPLETON** wanted to encourage entrepreneurs, so if a recent graduate wanted to start a company and hire college graduates paying them full time wages, that person would become a qualified employer. **CHAIRMAN KEENAN** repeated that the self employed person was not eligible.

SEN. ROYAL JOHNSON stated that he was in favor of the amendment, but thought it ought to be worded correctly. He said that **SEN. JERGESON** interpreted that the amendment was backwards from what he wanted. **Jon Moe, Legislative Fiscal Division**, asked if there was language the committee could like to add for clarity. **SEN. JOHNSON** said he understood what **SEN. STAPLETON** was trying to do with the amendment, but he wanted to know that other people would understand it. **SEN. JERGESON** expressed amazement that his pointed question regarding entrepreneurs would result in an outcome that was the opposite of what he was asking the question for. To encourage people to be entrepreneurs, they should get both the incentive payment and qualify as an employer for putting oneself to work. He thought the amendment continued a "kind of Montana mind set" instead of an entrepreneurial spirit of starting and operating a business, which is what Montanans really need to do. He opposed the amendment and asked that an amendment be drafted that would enable the individual to get both the incentive and the tax credit.

Motion: **SEN. JERGESON** moved a **SUBSTITUTE AMENDMENT THAT AN INDIVIDUAL AS AN ENTREPRENEUR WOULD BE ELIGIBLE FOR BOTH THE EMPLOYEE INCENTIVE AND THE EMPLOYER TAX CREDIT.**

SEN. STAPLETON expressed resistance to the substitute amendment. He stated that his amendment was in keeping with the intent of the bill and was a clarification. He said that a true

entrepreneur needs to hire people, and therefore be eligible to receive a tax credit. The substitute motion was against the intent of the bill, and double dipping was never the intention.

CHAIRMAN KEENAN said he wasn't sure there was a need for the substitute motion. The way the bill was drafted originally, the self-employed individual would be eligible for both the tax credit and the incentive. **Mr. Moe** said he talked to legislative attorneys **Lee Heiman** and **Eddye McClure**. In their opinion, the employer-employee relationship doesn't exist where there is sole proprietor or a partner. They thought that under the language of the bill that the double payment or even a single payment wasn't there. Where there is a corporation established, the owner becomes an employee of the corporation and then the situation can exist. **CHAIRMAN KEENAN** asked if an individual graduate starting their own business might not be eligible for either credit. He questioned the situation regarding corporations. **Mr. Moe** clarified that a sole proprietor or partnership does not qualify as an employee and not necessarily as an employer and certainly not an employer of themselves. The incentive payment could not occur in those instances. Regarding corporations, the owner becomes an employee of the corporation and as an employee could get the incentive payment. **SEN. JERGESON** contended that his substitute amendment was needed to accomplish anything beyond what the bill does. He said that **SEN. STAPLETON's** amendment only confirms what is implied in the bill in the first place. He thought that to encourage entrepreneurs was not outside the title of the bill and that there would be a number of new business start-ups that would later employ others. He thought if there was interest in using the bill to encourage Montanans to stay and to create businesses that generate jobs, then the issue ought to be addressed and the incentive and tax credit be made available to those self-employed people that graduate from Montana universities. **SEN. MIGNON WATERMAN** asked for clarification.

SEN. JERGESON said his substitute motion would be that an individual qualifying for an incentive payment under sections 36 or 37 of the act, may qualify for the tax credit as a self-employed individual. **Mr. Moe** asked if that would mean the sole proprietor or partner could receive the incentive payment as well as the employer tax credit. The incorporated business would receive the payment as the employee, but the corporation could receive the tax credit. **SEN. JERGESON** thought that was already implied in the bill. **SEN. ZOOK** confirmed that was in the bill. **SEN. STAPLETON** replied that his amendment solidified and clarified what he thought the bill already did. He thought **SEN. JERGESON's** substitute amendment expanded on the bill and expanded the fiscal note. He said he resisted that on principle. He said the idea behind the bill and the economic justification was that it was an investment. An environment where an individual collects as an employer but is not paying any payroll taxes goes

against what he was trying to do. That was why non-profits or school districts weren't called qualified employers and would not get a tax credit. There was no taxable event going on when an individual was self-employed. He said his resistance was not that he was anti-entrepreneur, but based in fairness. **SEN.**

JERGESON stated that the self-employed pay taxes. **SEN. STAPLETON** replied that if they want to be entrepreneurs, then they should hire employees, pay them full-time good wages and then they would be eligible. He said everything could not be done with one bill and suggested keeping the fiscal note as it was. **SEN. WATERMAN** asked if entrepreneurs would have to verify hours worked and that wages were paid at \$8 per hour. **SEN. STAPLETON** said that could be calculated. **SEN. WATERMAN** reiterated that the self-employed would have to show income and **SEN. STAPLETON** agreed. He said there would be a taxable trail that the DLI could verify. They would also verify that an individual got their degree in Montana within the last three years. **SEN. WATERMAN** asked if it would have to be taxable income before an entrepreneur would qualify. **SEN. STAPLETON** said that was correct.

Vote: Substitute motion **failed 1-17 with SEN. JERGESON voting yes.**

Vote: **AMENDMENT** to SB 273 (SB027301.ajm) **carried 17-1 with Jergeson voting no.**

SEN. WATERMAN asked about the fiscal impact of \$3 million a year. **SEN. STAPLETON** said the amendments might slightly reduce the fiscal impact. **SEN. WATERMAN** expressed concern about what was being done to future legislatures because a number of bills have been passed where the impact will not happen until the next biennium. She thought she would support SB 273 because it was different in that there was no way to move the impact back in. In other bills, she would try to move the impact back into the current biennium because she thought that if a bill is going to be passed it should be paid for. In this bill, an individual has to be out of school two years before an incentive payment is earned, so there is no way for the impact to be in the current biennium. Those coming back next session will have a \$6 million hole to fill with the bill. She agreed that could mean new jobs, but those may well be jobs that were already here--people who were going to stay in Montana anyway. She thought the bill was a good concept, but the cost of \$6 million needed to be recognized with no guarantee there will be that much new revenue. **SEN. JON TESTER** commented that he had the same concerns about the next biennium, and said the bill was a good concept. He thought the bill wasn't focused enough. The bill did not focus on teachers and they are leaving the state. Small schools in certain areas can't find accredited teachers. He said he would be more

inclined to vote for the bill if it was more focused but said he would have to vote against it. **SEN. NELSON** said she would be coming back and felt great anxiety when things were done like this. She said she did not see signs that the economy was improving that much. She thought they were digging themselves a hole. She thought it was a very worthwhile program, but could not support it. **SEN. JERGESON** recalled in 1991 and 1993 when there were structural deficits that were built over the course of the 1980s. He said it was a miserable experience cutting budgets, and not just reducing the increases. He said he did not want to have a hand in creating or adding to a structural deficit. He liked what **SEN. STAPLETON** was trying to do with the bill, but said there were other burdens and responsibilities that they all shoulder and share and he could not vote for the bill. **SEN. JOHNSON** thought there were a lot of bills that were exactly like this bill in disguise. He also saw no positive changes in the next two years unless agricultural prices turn around substantially. He thought this would not be the only bill that would get flushed out when the legislature comes back in 2003. He was present in 1993 when those problems were faced and it was one of the most unpleasant things he'd ever gone through. He thought it was no different with SB 273 than with a lot of bills that have gone through the House and the Senate so far and that will come out of session. **SEN. MILLER** expressed some frustration. He said he sat on the education subcommittee with **SEN. JERGESON** and **SEN. JOHNSON**. He said if there was belief in the concept that investing in higher ed would grow the economy, then the bill should be supported. He had concerns, but felt the bill would be an investment in higher ed, that the economy would grow and the next session would have extra revenue to be able to fund the bill. He stated support for the bill. **SEN. CHRISTIAENS** said he was torn, but thought the bill made great sense. He said he would feel more comfortable if a sunset provision was put on the bill. He said he could vote for the bill if it sunsets in 2005.

Motion: **SEN. CHRISTIAENS** moved **TO PUT A SUNSET OF 2005 ON SB 273.**

SEN. STAPLETON said he was the first person to get rid of things that weren't working, including his bill. He thought with the two year mechanism in the bill, that it won't kick in for a couple of years. He said Montana didn't get into the doldrums over night, and that there would be no overnight solution. He said the legislature makes many reactive, short-term decisions because it only meets every two years and the effects of term limits. He opposed the idea of a sunset because he didn't know how to do long term investing for a short period of time. **SEN. CHRISTIAENS** thought that the bill would kick in and there would be a two year window to look at results. By next session, the

state financial situation will be more clear. Putting a sunset on the bill guarantees that the bill will be looked at when the legislature comes back. If the bill just passes, it will not get the same scrutiny that it will if it is sunset. There will be people who have taken advantage of it who can talk about whether made a difference. If it didn't work, that will be known up front, and the program can just go away.

{Tape : 2; Side : A}

SEN. STAPLETON inquired if the 2005 legislature could extend the sunset. **SEN. WATERMAN** reported that she had sunset several bills. The telecommunications infrastructure tax credit that she did last session sunsets next session. They are just beginning to get the first year's results. She felt comfortable with a sunset on SB 273 because not only does it mean going back and looking at the program but it will give some data to look at the concerns of **SEN. JERGESON** as well. Modifications can be made. She felt the option to sunset bills would become more important with effects of term limits. People will forget or simply not know bills were passed. Periodic reviews, whether they are sunsets or not, will be crucial. She felt there was nothing to fear with sunsets. If a bill is not working, it will sunset; if it is working people will know about the sunset and want to continue it. **SEN. STAPLETON** conceded that he would support a sunset. He thought the program would stand on its own, but was concerned that it would be too soon to see if it has made a difference or not. He felt the onus should be on the program to prove itself. **SEN. CHRISTIAENS** thought the bill should sunset at the end of the tax year. **SEN. WATERMAN** said that the legislature would have to act in 2005, so it didn't matter.

Vote: Motion to amend SB 273 to sunset in 2005 carried unanimously.

SEN. ZOOK said he could not determine from the bill if it was just for Montana residents. He wondered if 20 percent of students were from out of state. He asked if the bill was intended to apply to them. He thought if it was tied to Montana residents, it would reduce the fiscal note. **SEN. STAPLETON** replied that if students spent half their money or more in a Montana institution and go to work and pay taxes in Montana, they should be encouraged to do so. **SEN. BEA MCCARTHY** wondered about students that get a degree here with one semester of attendance. **SEN. STAPLETON** asserted that by definition a student would have to receive over half of their credits in Montana. **SEN. WATERMAN** asked if the bill was applicable to June 30, 2001 and excludes the graduates from the current year. **SEN. STAPLETON** said that was his intention.

Vote: Motion that **SB 273 DO PASS AS AMENDED** carried 15-3 with **Jergeson, Nelson, and Tester** voting no. (Proxies for **Beck, Cobb, Crismore** who were in other meetings)

EXECUTIVE ACTION ON SB 322

SEN. DEBBIE SHEA presented amendments (SB032206.aem).

EXHIBIT (fcs53a03)

SEN. WATERMAN expressed a concern about a worker with an engineering or geology degree that was laid off, had taken another job and would still qualify for re-education. She pointed out the retroactive part of the bill. Workers in a low income job should qualify. If on the other hand they are making a good living and just want to go to school, she said she would be less enthused about that. **SEN. SHEA** wondered how many that would really apply to. **SEN. WATERMAN** thought an income level should be put in. **SEN. SHEA** addressed that concern. She did not think that people in a good job would leave that job to go to school. **SEN. ZOOK** had a concern with funding coming from the ground water assessment. With the methane development in his district, those are important dollars. He hoped funding could be found elsewhere. **SEN. CHRISTIAENS** asked **Mike Foster from DLI** to get information on all the money that comes into the state for job training programs including exactly how much money is in the governor's office under the 15 percent discretionary fund. He would share that information with the committee when it becomes available. His sense was that there was more than \$300,000 in the discretionary funds. He felt there was no better place to use those funds. **SEN. WATERMAN** said there was several million dollars in that fund, but she knew that \$250,000 was moved out of the governor's discretionary fund for a supplemental for Project Challenge last year. **CHAIRMAN KEENAN** said the bill would be taken up again the following week.

EXECUTIVE ACTION ON SB 66

Motion: **SEN. JOHNSON** moved that **SB 66, AN ACT TO BASE COUNTY ATTORNEYS SALARIES ON A PERCENTAGE OF DISTRICT JUDGES SALARIES, DO PASS.**

SEN. WATERMAN introduced an amendment (SB006601.ajm) which addressed her concern about the cost for the bill occurring in the next biennium. She thought the bill should be funded now, or that the next legislature should fund it if funds are available. She did not want to put the next legislature into the same sort of budget crisis as this one, and have to tell county attorneys that the problem was not resolved after all. She did not think that was fair.

Motion: SEN. WATERMAN moved to AMEND SB 66 TO MOVE FUNDING INTO THE CURRENT BIENNIUM.

SEN. CHRISTIAENS said he was unclear about salaries for part time county attorneys. There are 26 counties that have part time county attorneys. He wondered what raising those salaries to 95 percent would do. Mr. Moe explained that the amendment affects page 5 lines 25-28. It deletes the delay mechanism in the law. The result is that county attorney salaries would go to 95 percent of district judge salaries. The formula in the law that determines how much goes to a part time county attorney is still in place. SEN. CHRISTIAENS asked how that would affect the fiscal note. CHAIRMAN KEENAN assumed that it would increase the cost. Mr. Moe said the original fiscal note would apply, which showed \$2.5 million in 2002 and 2003. SEN. MCCARTHY asked if the money would come out of the general fund. SEN. WATERMAN assumed that it would come through the DOJ budget, but in the end would come out of the general fund. There is no other source of revenue that pays county attorney salaries. Dedicating fines had been discussed. SEN. CHRISTIAENS said that in his subcommittee, they dealt with it under the DOJ budget. Currently, the state picks up 50 percent of those salaries. Any county that has a part time and wishes to change that needs to notify the DOJ by July 1 of the year prior. (At this point, the committee took a five-minute recess)

SEN. WATERMAN said she did not expect the DOJ to eat the \$5 million price tag. She was amending the bill with the understanding that the budget would increase that much, but thought otherwise they were not being honest. She said that was what Congress did all the time. SEN. CHRISTIAENS said that when HB 2 comes before the Committee, that the adjustment would need to take place in the DOJ budget. There would be a 45 percent increase. SEN. JOHNSON commented on the new fiscal note on the bill. He said that if the committee agreed with the reasoning that the legislature can review a bill in the next biennium, then there is no reason not to push the funding into the 2004 and 2005 biennium. The bill is written to have no impact on the 2002 and 2003 on the general fund. If there is no money in the 2003 legislative session, SB 66 is another one of those bills that is going down the tube at that time. CHAIRMAN KEENAN stated that the actual implementation of the bill would be a subcommittee action in 2003. SEN. WATERMAN said people will benefit from SEN. STAPLETON'S bill. There is no promise that will be taken back. In the case of SB 66, county attorneys are being told salaries will be raised but there may not be money to do it. She thought that unfair. It either needed to be funded now, or the next legislature should consider it. SEN. MCCARTHY asked about people who may be running for election believing that salaries will be raised. SEN. WATERMAN said the next legislature should raise the

salaries if they have enough money. **SEN. JOHNSON** said delaying funding to a future biennium is commonly done and that anyone that runs for election in this state and doesn't realize what is going on has probably not been here very long. He suggested maybe they shouldn't be elected on that basis. He thought the committee should do what was needed to encourage people to be in county attorney positions and not worry about it. **CHAIRMAN KEENAN** said he knew of thousands of people who signed up for a certain occupation without ever looking at a pay matrix.

Vote: MOTION TO AMEND SB 66 (SB006601.ajm) passed 9-8.

{Tape : 2; Side : B}

SEN. STAPLETON said he assumed the fiscal note would move forward two years. **SEN. WATERMAN** said the bill now had a \$5 million impact.

Substitute Motion/Vote: SEN. ZOOK made a substitute motion **TO TABLE SB 66. Substitute motion carried 13-4 with Beck, Johnson, Stapleton, and Waterman voting no.**

Motion: SEN. MILLER moved **TO RECONSIDER COMMITTEE ACTION ON HB 73.**

SEN. MILLER thought there should be clarification on the section of law referred to in the Jergeson amendment (HB007301.ajm).

Vote: Motion to reconsider carried 15-2 with Christiaens and Johnson voting no.

He said he probably misunderstood **SEN. JERGESON**, but he thought it took out the section of law having to do with full cost accounting and duplication in the law. It actually has to do with a privatization bill that was passed three sessions ago. He saw no requirement on the auditor. He read a portion of the bill, 2-8-301 and 2-8-304.

EXHIBIT (fcs53a04)

He said the audits would uncover areas that could be recommended for privatization. He thought the law should be retained and the Jergeson amendment should be removed. **SEN. WATERMAN** agreed saying that the current law was where state government notified the public about privatization of a government service. She recalled that the bill came about because of efforts in a previous administration to privatize without legislative approval. There was no public discussion, it was not fair to employees and there was no good review of it. If that was what was being repealed, and agencies were just being turned loose to privatize, she thought it should be retained as a good check and balance. Privatizing could still be done, but with a public hearing to have a plan discussed first.

Motion: SEN. MILLER moved HB 73 AS IT WAS AMENDED TO TAKE THE AMENDMENT OFF (HB007301.ajm).

SEN. JERGESON said 2-8-304 sub-paragraph 3 on exhibit 4 says "the office of budget and programming shall submit to the legislative audit committee by July 1 of each odd-numbered year a list and a request for privatization of at least two of the programs." That has not been done. **CHAIRMAN KEENAN** recalled when the process was used to consider the privatization of the nursing home in Lewistown. He said it wasn't done every two years by any means, but he did remember that process in 1996 or 1997. **SEN. ZOOK** said that the maintenance program at highways had been done at some time. **SEN. JERGESON** said the point was that the body of legislation was put into place to accomplish what HB 73 purports to accomplish. Everything that HB 73 wants to accomplish can be accomplished from what is in existing statutes. **SEN. JOHNSON** disagreed and stated that the interim committee made a recommendation to the 2001 legislature and picked out specific programs to be looked at. The opportunity was given to the office of budget and planning and they didn't take that opportunity. **SEN. WATERMAN** said there may be a point to removing item 3 under 304, but stated a problem with removing sections 1 and 2 that talk about how state government goes about privatizing. The public planning process is needed before something is privatized. She suggested a more narrowly crafted motion. **SEN. ZOOK** said the current law might work in conjunction with the bill as it was passed. Sections 2-8-302 and 2-8-303 might be useful if from the cost accounting program it is determined that privatization may be a direction to go in a particular area. The sections might be needed for guidelines to do that.

Vote: Motion to remove amendment from SB 73 carried 14-2 with Cobb and Jergeson voting no.

Motion: SEN. MILLER moved that HB 73 AS AMENDED BE CONCURRED IN.

SEN. CHRISTIAENS asked if in stripping off the amendment that current law had been kept in. He asked if there was a separate motion that identified the Department of Administration and wondered if that was still in the bill. **CHAIRMAN KEENAN** said that **SEN. JOHNSON's** amendment was for DEQ, DOA and DOC (Commerce) to be the departments in the pilot program for full cost accounting. **SEN. JERGESON** said he might offer an amendment on the floor that if a recommendation is derived from the pilot program in HB 73, that it has to go through the review process that is in the current statute. He did not have language ready, but would by the time the bill came to the floor.

Vote: Motion that **HB 73 AS AMENDED BE CONCURRED IN** carried 16-1
with Jergeson voting no.

SEN. CHRISTIAENS suggested it would be cleaner to further amend the bill in committee rather than have the bill go out. He thought it should be addressed in the committee due to the time factor for action on the floor. **SEN. JERGESON** said there was no deadline with the bill, so it would be up to the chairman.

CHAIRMAN KEENAN agreed to hold and not sign the committee report on the bill and then the committee could reconsider it. The amendment can be considered and then it can be put through if the amendment passes.

ADJOURNMENT

Adjournment: 11:20 A.M.

SEN. BOB KEENAN, Chairman

PRUDENCE GILDROY, Secretary

BK/PG

EXHIBIT (fcs53aad)